

Mandates of the Special Rapporteur in the field of cultural rights; and the Special Rapporteur on freedom of religion or belief

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur in the field of cultural rights; and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 37/12 and 40/10.

In this connection, we would like to bring to the attention of your Excellency's Government **information we have received concerning the change in status of the Hagia Sofia in Istanbul from a museum into a mosque.**

According to the information received:

The Hagia Sophia in Istanbul, a former Christian basilica built in 537, was converted into a mosque in 1453 and became a museum in 1934, following a decision taken by Mustafa Kemal Atatürk, the founder of the Turkish Republic. The site, which has been used by persons of all faiths, including Christians and Muslims, and non-religious persons, has been celebrated as an example of inter-faith and inter-cultural dialogue. The Hagia Sophia is included on the UNESCO World Heritage List.

Following a decision by the Turkish Council of State which determined that the transformation of the Hagia Sophia to a museum in 1934 by Mustafa Kemal Atatürk was unlawful, on 10 July your Excellency's Government announced that it would change the status and governance of the site and recognize it solely as a mosque. On 16 July a protocol was signed, transferring jurisdiction over Hagia Sophia from the Ministry of Culture and Tourism to the Presidency's Department of Religious Affairs. It was initially reported that this might include delegation of responsibility for maintenance and conservation work, which includes "the preservation and presentation to the public of a multi-layered history and the cultural integrity of the monument, including, among others, the outstanding mosaics from the Byzantine era, the unique marble revetments, and the original pavement of proconnesian marble."¹

The reported transfer of responsibility from the Ministry of Culture and Tourism to the Department of Religious Affairs could result in damage to the buildings and artwork. It is reported that a different directorate, the Directorate General of

¹ <https://www.europanostra.org/europa-nostra-calls-for-the-preservation-of-the-cultural-heritage-integrity-of-hagia-sophia/>

Foundations, has concealed frescos of human figures in another former monument transformed into a mosque, the Hagia Sophia in Trabzon on the Black Sea. It also caused structural damage to another monument transformed into a mosque, namely Hagia Sophia in Vize.

Subsequently, it has been reported that your Excellency's Government intends not to fully transfer all responsibilities, but to instead create an administrative body constituted of representatives of the Ministry and the Directorate.

Due to the timeframe of actions with regard to Hagia Sophia in Istanbul, the requirements under the 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage, and the rules derived from it, to provide prior notice of the change of circumstances of a site to the World Heritage Committee, were not met. On 10 July 2020, the Director-General of UNESCO stated that "This decision... raises the issue of the impact of this change of status on the property's universal value. States have an obligation to ensure that modifications do not affect the Outstanding Universal Value of inscribed sites on their territories. UNESCO must be given prior notice of any such modifications, which, if necessary, are then examined by the World Heritage Committee."² The Director General of UNESCO also noted as problematic the lack of dialogue with affected people and groups with links to the site.

On 24 July, the site has been officially opened as a mosque with a high level Friday prayer service. Experts have raised questions as to whether some modifications to the space for this event, such as the covering of art works, were carried out in ways that respect standards for the protection of cultural heritage. On that day President Erdogan was in attendance, and a sermon was delivered by the head of the State Religious Affairs Agency while holding a sword, which could be construed as a symbol of conquest.

While we do not wish to prejudge the accuracy of these allegations, we express concern regarding reports of new governance arrangements for the site, which require clarification, and which must ensure that the relevant technical experts in heritage preservation from the Ministry of Culture and Tourism remain in charge of the preservation and care of the site. We express further concern that any possible transfer of responsibility over the Hagia Sofia in Istanbul from the Ministry of Culture and Tourism to the Department of Religious Affairs could result in damage to the buildings and artwork. Moreover, we express concern that the transformation of the Hagia Sofia may set a precedent for the future change in status of other sites, which will have an overall negative impact on cultural rights and religious harmony.

We note that President Erdogan attended the prayer service on 24 July, at which a sermon was delivered by the head of the State Religious Affairs Agency while he was holding a sword, which could be construed as a symbol of conquest. Rhetoric in the

² <https://en.unesco.org/news/unesco-statement-hagia-sophia-istanbul>.

debate about the transformation of the site also referenced conquest. We are concerned that all this magnifies the symbolism of this change of status and risks instrumentalizing cultural heritage.

We express further concern that the failure to provide prior notice to UNESCO places the determination of the site's Outstanding Universal Value at risk, and may breach the 1972 convention and related rules. We share the concerns raised by the Director-General of UNESCO on 10 July 2020 that "This decision... raises the issue of the impact of this change of status on the property's universal value. States have an obligation to ensure that modifications do not affect the Outstanding Universal Value of inscribed sites on their territories. UNESCO must be given prior notice of any such modifications, which, if necessary, are then examined by the World Heritage Committee." Moreover, the lack of dialogue with affected people and groups with links to the site is also, as the Director General noted, problematic.

We are concerned that the transformation of the Hagia Sofia in Istanbul from a museum to a mosque may violate the right of people of diverse religions and backgrounds, and non-religious people, to benefit from access to, and use of, the site, and to engage in their right to take part in cultural life, including through access and enjoyment of cultural heritage. This concern will materialize if the State does not uphold its promise to ensure that the Hagia Sofia remains an accessible place of cultural heritage for all humanity.

Moreover, we fear that this action could harm the right to learn about the histories of religious minorities, and the preservation of the history of Turkey's diversities, which should be transmitted to future generations (A/71/317, para. 35). It can lead to the disappearance of the cultural traces of religious minorities and to a form of cultural engineering to reconfigure Turkey's past for contemporary political purposes. This risks erasing memory, in order to create new historical narratives affording no alternative vision. (A/71/317, paras. 34-36) Such developments could further undermine the right of everyone to take part in cultural life, without discrimination, the right to education, the right to freedom of religion or belief, and in particular harms these rights for religious minorities.

The Special Rapporteur in the field of cultural rights has stressed the need to engage with cultural heritage in its diversity in such a way as to allow cultural rights to flourish (A/71/317, para. 76). We are concerned that this way of characterizing Hagia Sophia as a monolithic site could reflect a supremacist view of history and culture rather than the meeting of cultures, the spirit which resulted in its World Heritage status. Political rhetoric used to describe and justify these moves in terms of conquest, and to criticize those in Turkey who disagree with them as "Byzantines," worsens the impact. These developments and the accompanying discourse, taken together, raise concerns about the rights of everyone to access and enjoy cultural heritage, including Christian, Muslim and secular heritages, about inter-faith co-existence and secular spaces, and about the equality and safety of religious minorities, including Christians. In our view, it would be an historic mistake at this difficult global moment to take actions which divide

religious and cultural groups in Turkey and beyond, rather than uniting them. As has been noted, the dome of the Hagia Sophia should be big enough to include everyone.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please explain any measures taken to ensure continuing access to the Hagia Sofia for all people, including for educational and cultural purposes, and to enjoy their cultural rights in accordance with international standards.
3. Please explain what measures your Government intends to take to ensure the preservation and maintenance of the Hagia Sofia, and the preservation of its universal value, including ensuring that its obligations under the UNESCO World Heritage Convention, and rules derived from it, will be met.
4. Please clarify the governance arrangements for the site and explain how these will guarantee its preservation and maintenance.
5. Please explain any measures taken by the Government to preserve the historical and cultural traces of religious minorities, to promote tolerance and understanding of religious and cultural diversity, including in the past, and to promote the equality of all persons, including members of religious minorities.
6. Please indicate what steps will be taken to ensure consultation with diverse groups and individuals with to the site about its status, use and preservation.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

Karima Bennoune
Special Rapporteur in the field of cultural rights

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

Annex

Reference to international human rights standards

In connection with above alleged facts and concerns, we would like to take this opportunity to draw your Excellency's Government's attention to applicable international human rights norms and standards, as well as authoritative guidance on their interpretation.

In accordance with article 27 of the Universal Declaration of Human Rights, and article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Turkey in 2003, everyone has the right to take part in cultural life, without discrimination. As stated by the Committee on Economic, Social and Cultural Rights in General Comment Number 21 on Article 15, this includes the right of all persons to access and enjoy cultural heritage, including their own and that of others. The Special Rapporteur in the field of cultural rights has explained that this spans the rights to "know, understand, enter, visit, make use of, maintain, exchange and develop cultural heritage, as well as to benefit from the cultural heritage and creations of others, without political, religious, economic or physical encumbrances". (A/HRC/17/38, para. 58)

Participation of individuals and groups in cultural life is crucial and includes the right to develop multiple references and "contribute to the creation of culture, including through the contestation of dominant norms and values". "States should [...] acknowledge, respect and protect the possible diverging interpretations that may arise over cultural heritage" and "the choices of individuals and communities to feel associated (or not) with specific elements of cultural heritages". (A/HRC/17/38, para.10 and 80 a). The Committee on Economic, Social and Cultural Rights has made clear that "In many instances, the obligations to respect and to protect freedoms, cultural heritage and diversity are interconnected."³

As cultural heritage represents values linked with the cultural identity of individuals and groups, access to and enjoyment of cultural heritage also imply "contributing to the identification, interpretation and development of cultural heritage, as well as to the design and implementation of preservation/safeguard policies and programmes" and should therefore include consultations with all concerned before deciding on the destruction of sites of cultural or religious significance (A/HRC/17/38, para.58 and 79). The same principle should apply to the substantial change in status of such sites.

Cultural and religious sites are also critical resources for safeguarding, questioning and transmitting historical knowledge and narratives of the past, and as such, are resources to ensure the right to education and training without any discrimination, as recognized in article 13 of the ICESCR. The Special Rapporteur in the field of cultural rights warns against the fact that "dominant homogenizing narrative blanches out diversity, ignoring the cultural heritage of everyone outside the group in power,

³³ General Comment No. 21, para. 50.

simultaneously depriving the majority of the opportunity to understand the complexity of their country” (A/68/296, para. 31).

The mandate of the Special Rapporteur in the field of cultural rights has demonstrated that “cultural diversity is both a necessary condition for and the result of the exercise of cultural rights by all. Access to the diversity of persons, knowledge, cultural heritage and creative expressions of others is necessary to develop capacities and expressions.” (A/73/227, para. 59) The UNESCO Universal Declaration on Cultural Diversity (2001) establishes that “the defence of cultural diversity is an ethical imperative, inseparable from respect for human dignity”, which “implies a commitment to human rights and fundamental freedoms, in particular the rights of persons belonging to minorities and those of indigenous peoples” (art. 4).

This declaration further stresses that “culture takes diverse forms across time and space. This diversity is embodied in the uniqueness and plurality of the identities of the groups and societies making up humankind. As a source of exchange, innovation and creativity, cultural diversity is as necessary for humankind as biodiversity is for nature. In this sense, it is the common heritage of humanity and should be recognized and affirmed for the benefit of present and future generations” (art. 1). It is further underscored that respect for cultural diversity is a guarantor of international peace and security and of social cohesion, and a root of development, as well as “an ethical imperative, inseparable from respect for human dignity” (art. 4). It grounds respect for cultural diversity in a commitment to the implementation of universal human rights, in general. (art. 4). (A/73/227, para. 6)

The right to maintain places of worship obliges States to provide special protection to those places: in 2007, the Human Rights Council urged States in its resolution 6/37, article 9(b), “[t]o exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights and humanitarian law, to ensure that religious places, sites, shrines and symbols are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration or destruction”. In 2011, the Human Rights Council called on States in resolution 16/18, article 6 (b) “To foster religious freedom and pluralism by promoting the ability of members of all religious communities to manifest their religion, and to contribute openly and on an equal footing to society”.

UN General Assembly resolution 55/254 of 2001, “[e]ncourages all States, relevant intergovernmental and non-governmental organizations and the media to promote, inter alia, through education, a culture of tolerance and respect for the diversity of religions and for religious sites, which represent an important aspect of the collective heritage of humankind.” (para. 3)

Article 1.1 of the UNESCO 1995 Declaration on Tolerance makes clear that: “Tolerance is respect, acceptance and appreciation of the rich diversity of our world's cultures, our forms of expression and ways of being human. It is fostered by knowledge, openness, communication, and freedom of thought, conscience and belief. Tolerance is

harmony in difference. It is not only a moral duty, it is also a political and legal requirement. Tolerance, the virtue that makes peace possible, contributes to the replacement of the culture of war by a culture of peace.”

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.